Calendar No. 147

101ST CONGRESS *1st Session*	SENATE	REPORT 101-71

FEDERAL MARITIME COMMISSION AUTHORIZATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

H.R. 840

JULY 11 (legislative day, JANUARY 8), 1989.—Ordered to be printed

---

U.S. GOVERNMENT PRINTING OFFICE
89-010 WASHINGTON : 1989

S263-20

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUYE, Hawaii	JOHN C. DANFORTH, Missouri
WENDELL H. FORD, Kentucky	BOB PACKWOOD, Oregon
J. JAMES EXON, Nebraska	LARRY PRESSLER, South Dakota
ALBERT GORE, JR., Tennessee	TED STEVENS, Alaska
JOHN D. ROCKEFELLER IV, West Virginia	ROBERT W. KASTEN, JR., Wisconsin
LLOYD BENTSEN, Texas	JOHN McCAIN, Arizona
JOHN F. KERRY, Massachusetts	CONRAD BURNS, Montana
JOHN B. BREAUX, Louisiana	SLADE GORTON, Washington
RICHARD H. BRYAN, Nevada	TRENT LOTT, Mississippi
CHARLES S. ROBB, Virginia	

RALPH B. EVERETT, *Chief Counsel and Staff Director*
WALTER B. MCCORMICK, Jr., *Minority Chief Counsel and Staff Director*

Calendar No. 147

101ST CONGRESS
1st Session

SENATE

REPORT
101-71

FEDERAL MARITIME COMMISSION AUTHORIZATION

JULY 11 (legislative day, JANUARY 3), 1989.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany H.R. 840]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 840) to authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

This bill authorizes appropriations for the continuation of programs administered by the Federal Maritime Commission [FMC] and sets guidelines for the administration of an Automated Tariff and Filing Information [ATFI] data base.

BACKGROUND AND NEEDS

The bill, as reported, authorizes the appropriation for fiscal year [FY] 1990 of $16,350,000 for the FMC, which is an independent regulatory agency that administers: the Shipping Act, 1916; the Merchant Marine Act, 1920; the Intercoastal Shipping Act, 1933; the Shipping Act of 1984; the Foreign Shipping Practices Act of 1988; and related shipping statutes. The FMC's major responsibilities include: the review of tariff filings and service contracts; investigation and adjudication of penalties for discriminatory rates or practices among shippers, carriers, and terminal operators operating in the U.S. ocean commerce; licensing of independent ocean freight forwarders; passenger vessel certification; and countering the actions of foreign carriers or governments that create unfavorable conditions in U.S. foreign ocean trades. The authorization will

29-010

permit the development and implementation of an ATFI system to go forward, authorize funds for additional personnel, and accommodate certain increases in operating expenses in FY 1990.

By law, all water carriers in U.S. foreign commerce are required to file tariffs containing the rates and charges with the FMC. Presently, the processing of these tariffs is done on a manual basis, resulting in some 5,000 loose leaf binders being maintained by the FMC. In 1988, more than 715,000 tariff pages were received for filing.

The automation of this filing system will increase efficiency of the FMC and enable the carriers to file and make tariff changes in a more efficient and expedited manner. Shippers, freight forwarders, and other entities in the shipping industry will be able to gain access, on a limited basis, to the same information they can presently obtain at the public tariff room, but the process will be much more efficient. Third party vendors of more enhanced or value-added information systems have indicated that the ATFI system will enable them to improve the services that they currently provide to the public.

Some concern has been expressed by interested parties over the use and accessibility of the ATFI system. In particular, comments have been received from Government agencies, Members of Congress, shippers, liner conferences and carriers, freight forwarders, and information industry firms about the remote access feature of the system, which allows the public to obtain a particular carrier's rates on a specified commodity in a given trade. In response to these concerns, the Committee understands that the FMC intends to proceed with implementation of a system that it believes will meet the legitimate concerns of the interested parties.

The system will include the following features:

(1) a mainframe environment with a database system, using Electronic Data Interchange Association standards;

(2) a phased implementation schedule with temporary exemptions granted to firms which may find it difficult to convert to the electronic system;

(3) user training over the life of the contract;

(4) compatibility or connectibility with existing equipment to the extent possible;

(5) adequate security features to protect sensitive information; and

(6) both batch and interactive filing of tariff materials with edit checks to ensure compliance with the law and regulations.

The procurement of the ATFI system has been initiated by the FMC. A cost/benefit analysis has been submitted to the Office of Management and Budget, General Services Administration procurement authority has been received, a draft Request for Proposals has been issued, and the FMC has purchased equipment and a local area network for the ATFI. Thus, the funding increase is necessary to ensure an orderly implementation of the ATFI procurement plan.

The FMC also has increased its enforcement efforts to eliminate unfair practices. The authorization will permit the FMC to meet its responsibilities in this regard. Finally, the FMC is expected to com-

plete the comprehensive study of the ocean shipping industry that is mandated by section 18 of the 1984 Shipping Act.

Legislative History

H.R. 840 was introduced on February 6, 1989, and reported by the House Committee on Merchant Marine and Fisheries on April 25, 1989, (House Report 101–31). It was approved by the House of Representatives and referred to the Committee on May 1, 1989.

The Senate Merchant Marine Subcommittee held one hearing to consider H.R. 840. On June 20, 1989, in open executive session the Committee considered and, without objection, ordered H.R. 840 reported favorably.

Summary of Major Provisions

The legislation authorizes $16,350,000 for the FMC in FY 1990. It also contains specific directives regarding the ATFI system and its data base, the availability of its data base, and access to its data base.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, June 27, 1989.

Hon. Ernest F. Hollings,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 8840, an act to authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert D. Reischauer, *Director.*

Congressional Budget Office Cost Estimate

1. Bill number: H.R. 840.

2. Bill title: An act to authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation, June 20, 1989.

4. Bill purpose: H.R. 840 would authorize the appropriation of $16.35 million to the Federal Maritime Commission (FMC) for fiscal year 1990. This funding level includes approximately $1.9 million for the development and implementation of the Automated Tariff Filing and Information System (ATFIS). Under the provisions of Section 2 of the act, copies of the data base from the new system

would be made available in bulk to the public on a reimbursable basis.

Fiscal year 1989 funding for the FMC is $18.585 million. President Reagan's fiscal year 1990 request was $16.35 million.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1990	1991	1992	1993	1994
Authorization level	16.4				
Estimated outlays	14.0	2.4			

The costs of this act fall within budget function 400.

Basis of estimate: For purposes of this estimate, it is assumed that the full amounts authorized will be appropriated for fiscal year 1990. The authorization level is that specified in the act. Outlays have been estimated on the basis of historical spending patterns.

Section 2 is expected to have no net impact on federal expenditures. Any funds spent to provide bulk copies of the ATFIS data base would be offset by appropriate fees.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 24, 1989, CBO prepared a cost estimate for H.R. 840, a bill to authorize appropriations for fiscal year 1990 for the Federal Maritime Commission, as ordered reported by the House Committee on Merchant Marine and Fisheries, on April 18, 1989. This estimate is identical to the earlier one.

9. Estimate prepared by: Deborah Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

NUMBER OF PERSONS COVERED

The bill, as reported, will authorize appropriations for the continuation of programs within the FMC. An increase in funding is recommended to accommodate implementation of the ATFI systems which will improve and enhance the efficiency of tariff filing operations. Finally, funds are authorized for six additional workyears. The number of persons covered by provisions of this act will not vary significantly from those currently subject to regulation by the FMC.

ECONOMIC IMPACT

Section 1 of this bill authorizes $16,350,000 for the FMC in FY 1990. There is not expected to be any inflationary impact on the Nation's economy from the enactment of this authorization. The implementation of the ATFI system should lead to greater efficien-

cy in the operations of the FMC, which should produce a net savings to the Federal Government.

PRIVACY

This legislation will not have an adverse impact on the personal privacy of the individuals affected.

PAPERWORK

This legislation reauthorizes existing programs within the FMC. There should be, therefore, no change in the paperwork requirements associated with these programs. In fact, the implementation of the ATFI system will result in a reduction in the total paperwork requirements of the FMC.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section includes the FY 1990 authorization for the FMC. It is identical to the President's budget request for $16,850,000 and is an increase of $2,765,000 over the appropriation for FY 1989. This increase includes:

(1) an additional $1.9 million for the development of the ATFI system;
(2) $135,000 for six additional workyears;
(3) $320,000 for promotions, overtime, and incentive awards;
(4) $160,000 for the proposed two percent pay raise for calendar year 1990;
(5) $69,000 for personal benefits (e.g., retirement benefits);
(6) $25,000 for additional travel expenses; and
(7) $141,000 for expenses related to the Shipping Act of 1984 study.

SECTION 2

This section deals with the ATFI system. Its provisions reflect the results of discussions between the FMC and interested parties.

Under Section 2(a), the FMC shall require that complete and updated electronic copies of the ATFI system data base are made available to all parties. The Commission shall assess reasonable fees for this service consistent with section 552 of title 5, U.S. Code. The system is to include a mainframe environment with a database system, phased implementation schemes with temporary exemptions for firms that would have trouble converting to the electronic system, user training over the life of the contract, compatibility with existing equipment to the extent possible, adequate safety features, and batch and interactive filing of tariff materials with edit checks to ensure compliance with the law.

In order to implement a user fee system, the FMC must develop a means to identify users of the ATFI system. As the ATFI system is developed, the Committee expects that an effective means of user identification will be incorporated into the ultimate design.

Section 2(b) requires the FMC to implement measures to limit the access to the ATFI system through the implementation of "reasonable controls". While the ATFI system has not yet been fully

developed, the Committee expects that controls will be built into the design. These controls can be in the form of a limitation on access at any one time and a limit on the total amount of time on the system with an automatic log-off feature. The Committee expects to be informed of progress on both this and the user fee aspects of the ATFI system as they are developed. As discussed above with regard to user fees, some form of user identification will be necessary to make user limitation systems truly effective. This will assist in preventing circumvention of the limitation features and prevent a monopolization of the system by a single entity.

Section 2(c) allows for any information obtained from the system to be used, resold, or disseminated in any way without further regulation or imposition of additional fees or royalties by the FMC. This is designed to ensure that there will be a fair and competitive secondary market for basic ATFI information, and to permit any person who wishes to provide enhanced information services using ATFI to do so without restriction by the FMC.

SECTION 3

This section eliminates an unnecessary and outdated requirement of the Intercoastal Shipping Act, 1933, that bills of lading and contracts of affreightment be framed under glass aboard vessels. The requirement has applied to all carriers because, historically, most, if not all, liner operators carried both freight and passengers, and "price list" availability was considered appropriate to the needs of the travelling public. This section ends the posting requirement for non-passenger-carrying vessels only.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

INTERCOASTAL SHIPPING ACT, 1933

Section 2 of that Act

SEC. 2. That every common carrier by water in intercoastal commerce shall file with the Federal Maritime Board and keep open to public inspection schedules showing all the rates, fares, and charges for or in connection with transportation between intercoastal points on its own route; and, if a through route has been established, all the rates, fares, and changes for or in connection with transportation between intercoastal points on its own route and points on the route of any other carrier by water. The schedules filed, and kept open to public inspection as aforesaid by any such carrier shall plainly show the places between which passengers and/or freight will be carried, and shall contain the classification of freight and of passenger accommodations in force, and shall also state separately each terminal or other charge, privilege, or facility, granted or allowed, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such

aforesaid rates, fares, or charges, or the value of the service rendered to the passenger consignor, or consignee, and shall include the terms and conditions of any passenger ticket, bill of lading, contract of affreightment, or other document evidencing the transportation agreement. The terms and conditions as filed with the Federal Maritime Board shall be framed under glass and posted in a conspicuous place on board each vessel *that carries passengers* where they may be seen by passengers and others at all times. Such carriers in establishing and fixing rates, fares, or charges may make equal rates, fares, or charges for similar service between all ports of origin and all ports of destination, and it shall be unlawful for any such carrier, either directly or indirectly, through the medium of any agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any such carrier from extending service to any publicly owned terminal located on any improvement project authorized by the Congress at the same rates which it charges at its nearest regular port of call. Such schedules shall be plainly printed, and copies shall be kept posted in a public and conspicuous place at every wharf, dock, and office of such carrier where passengers or freight are received for transportation, in such manner that they shall be readily accessible to the public and can be conveniently inspected. In the event that any such schedule includes the terms and conditions of any passenger ticket, bill of lading, contract of affreightment or other document evidencing the transportation agreement, as herein provided, copies of such terms and conditions shall be made available to any shipper, consignee, or passenger upon request. Such terms and conditions[, if filed as permitted by this section and framed under glass and posted in a conspicuous place on board each vessel where they may be seen by passengers and others at all times,] may be incorporated by reference in a short form of same actually issued for the transportation, or in a dock receipt or other document issued in connection therewith, by notice printed on the back of each document that all parties to the contract are bound by the terms and conditions as filed with the Federal Maritime Board and posted [on board each vessel], and when so incorporated by reference every carrier and any other person having any interest or duty in respect of such transportation shall be deemed to have such notice thereof as if all such terms and conditions had been set forth in the short form document.

* * * * * * *

○